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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/824,424	04/15/2004	Douglas Willard	13952-2	6505

1059 7590 07/29/2004

BERESKIN AND PARR  
SCOTIA PLAZA  
40 KING STREET WEST-SUITE 4000 BOX 401  
TORONTO, ON M5H 3Y2  
CANADA

EXAMINER

PARSLEY, DAVID J

ART UNIT	PAPER NUMBER
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3643

DATE MAILED: 07/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/824,424

Applicant(s)

WILLARD, DOUGLAS

Examiner

David J Parsley

Art Unit

3643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4-15-04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **Detailed Action**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent No. 6,438,889 to Handy.

Referring to claim 1, Handy discloses a fishing rod support comprising, a restriction member – at 52-56, configured to receive a portion of a fishing rod, wherein the restriction member is configured to substantially limit rotational movement of the rod about a substantially vertical support axis – running through items 12-14, passing through the rod portion – see for example figures 1-3, and a retaining member – at 12-17, configured to releasably inhibit vertical movement of the rod portion – see for example proximate 24-25 in figures 1-3.

Referring to claim 2, Handy discloses the restriction member – at 52-56, comprises at least one substantially vertically aligned rod guide – proximate 60,63 or the interior of 52,55, which is vertically aligned at its central portion with the retaining member.

Referring to claim 3, Handy discloses the restriction member is operatively coupled to the retaining member – see for example proximate 60, 63 in figures 1-3.

Referring to claim 4, Handy discloses the retaining member is substantially tubular – see for example at 12-17 in figures 1-3.

Referring to claim 5, Handy discloses the restriction member – at 52-56, is substantially tubular – see for example figures 1-3.

Referring to claim 6, Handy discloses the retaining member – at 12-17, is movable between a substantially closed position in which upward vertical movement of the rod portion is inhibited – see for example figures 1-3 when the pin – at 24 locks item 13 to item 14, and an open position in which upward vertical movement is substantially uninhibited – see for example figures 1-3 where the pin – at 24 is not located in hole – 25 to lock item 13 to item 14.

Referring to claim 7, Handy discloses a body portion – at 60,63 or 27, operatively coupled to the restriction member – see for example figures 1-3.

Referring to claim 8, Handy discloses a ground engager – at 38, configured to releasably secure the support to the ground – see for example column 3 lines 6-12.

Referring to claim 10, Handy discloses the support further comprises a mount – at 27-46.

Claims 1 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,311,823 to Gaskill.

Referring to claim 1, Gaskill discloses a fishing rod support comprising, a restriction member – at 19,20, configured to receive a portion of a fishing rod – at B, 21, wherein the restriction member is configured to substantially limit rotational movement of the rod about a substantially vertical support axis – along item 1, passing through the rod portion and a retaining member – at 1-3, configured to releasably inhibit movement of the rod portion – see for example proximate 5-11 in figure 1.

Referring to claim 10, Gaskill discloses the support further comprises a mount – at 17,18 – see for example figure 1.

Referring to claim 11, Gaskill discloses a fishing rod handle holder – at 13,14,21', having a pocket for receiving a fishing rod handle – see for example figure 1, wherein the pocket is substantially aligned with a pocket axis – see figure 1, and wherein the pocket axis forms an angle of deflection to the vertical, wherein the body of the support further comprises a neck portion – at 2, and wherein the neck portion forms an angle which is substantially supplementary to the angle of deflection – see for example figure 1.

Referring to claim 12, Gaskill discloses the mount – at 17,18 is configured to engage the pocket – see for example figure 1.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Handy as applied to claim 8 above, and further in view of U.S. Patent No. 4,656,774 to Terrill. Handy does not disclose the ground engage is an auger bit. Terrill does disclose the ground engager is an auger bit – at 14,16 – see for example figure 1. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Handy and add the auger bit ground engager of

Terrill, so as to allow for the device to be securely held to the ground while allowing for the device to be easily removed from the ground.

### *Conclusion*

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to fishing rod holders in general:

U.S. Pat. No. 2,204,692 to Parisio – shows rod holder

U.S. Pat. No. 2,704,412 to Davis – shows rod holder

U.S. Pat. No. 3,570,793 to Shackel – shows rod holder

U.S. Pat. No. 5,921,014 to Lee – shows rod holder

U.S. Pat. No. 6,269,584 to Peaschek – shows rod holder

U.S. Pat. No. 6,547,203 to Willard – shows auger shaped ground engager

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (703) 306-0552. The examiner can normally be reached on 9hr compressed.

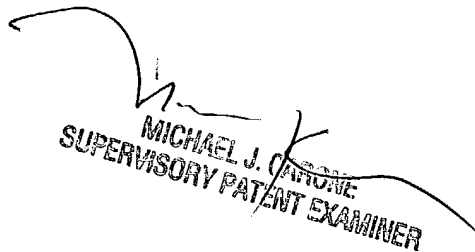
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (703) 308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3643

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David Parsley  
Patent Examiner  
Art Unit 3643



MICHAEL J. CARONE  
SUPERVISORY PATENT EXAMINER